

**PATENT APPLICATION**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Yasushi ITO

Group Art Unit: 3681

Application No.: 10/092,800

Examiner: A. Parekh

Filed: March 8, 2002

Docket No.: 111405

For: CONTROL APPARATUS AND METHOD FOR VEHICLE HAVING INTERNAL
COMBUSTION ENGINE AND CONTINUOUSLY VARIABLE TRANSMISSION,
AND CONTROL APPARATUS AND METHOD FOR INTERNAL COMBUSTION
ENGINE

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

In reply to the December 4, 2003 Office Action, reconsideration of the rejection is respectfully requested in light of the following remarks.

Claims 1-24 are pending.

I. Election of Species

In reply to the June 20, 2003 Election of Species Requirement, Applicant provisionally elected Species VI of the species outlined in the Table at the top of page 2 of the Election. However, according to the December 4, 2003 Office Action, Applicant allegedly elected Species I. Although the Examiner correctly identified elected claims 1 and 13 and the claims depending therefrom, Applicant respectfully submits that the Examiner incorrectly identified the election of species as Species I instead of Species VI. Clarification is respectfully requested.

II. Claim Rejection Under 35 U.S.C. §102(e)

Claims 1 and 13 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,345,221 to Hattori et al. (hereinafter referred to as "Hattori"). The rejection is respectfully traversed.

Hattori describes a control apparatus in a vehicle, and a method for controlling a continuously variable transmission and the power output of the vehicle. Hattori does not teach or suggest an exhaust purifying device disposed in an exhaust system and a controller that determines a first operating point at which a total fuel consumption amount is minimized as an optimal operating point, wherein the total fuel consumption amount is obtained by adding an amount of a fuel consumed by the exhaust purifying device to an amount of a fuel consumed by the internal combustion engine. None of the above features are disclosed or suggested by Hattori. In addition, none of the above features are disclosed or suggested in the language of claims 2 and 3 of Hattori cited by the Patent Office in support of the rejection.

For at least the foregoing reasons, Hattori fails to describe or suggest each and every feature of claims 1 and 13. Thus, Hattori fails to anticipate claims 1 and 13 or claims depending therefrom. Reconsideration and withdrawal of this rejection are respectfully requested.

III. Allowable Subject Matter

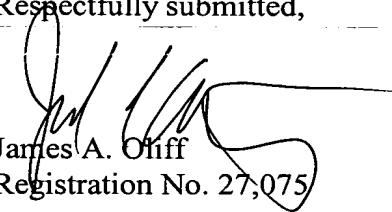
Applicant would like to thank the Examiner for indicating claims 3-6 and 18 to be allowed. Applicant would also like to thank the Examiner for indicating that claim 2 is objected to but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-24 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:JSA:MGH/hs

Date: March 4, 2004

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